

Minutes Tempe Merit System Board April 28, 2014

Minutes of the Tempe Merit System Board Meeting, held on Monday, April 28, 2014, 11:00 a.m., 20 East 6th Street, Tax and License conference room, 20 E 6th Street, Tempe, Arizona.

Board Members Present:

James P. Foley, Chair Russell Schoeneman Bill Munch

City Staff Present:

Renie Broderick, Human Resources Director Susan Buck, Human Resources Specialist Melanie Stoddard, Executive Assistant to Human Resources

Chair James Foley called the meeting to order at 11:12 a.m.

ITEM I – Consideration of Meeting Minutes

Motion by Russ Schoeneman to approve the October 29, 2013 Board meeting minutes and the Executive Session Meeting minutes of October 29, 2013; second by Bill Munch. Motion passed unanimously on a voice vote 3-0.

ITEM II - Motion to Adjourn to Executive Session, if necessary, pursuant to A.R.S. 38-431.03(A) (2), §38-431.03(A) (3)

No action taken.

ITEM III - Discuss and Approve Revisions to the City of Tempe "Merit System Board Guidelines" and Appendix Documents

Chair Foley called on Human Resources Director, Renie Broderick, to discuss changes to the City of Tempe Merit System Board Guidelines. She stated that the Board met in October 2013 to discuss proposed revisions to the guidelines and to provide input on the recommended changes. Since the meeting in October, staff made the suggested revisions from the Board. Chair Foley asked if the statutory references were cross checked and are current. Sue Buck, Human Resources Specialist, stated that she did an initial review of the statutes cited. In addition, the guidelines have been reviewed by legal counsel who also assisted with the development of the appendix items. The Board reviewed the guidelines page by page.

Section I.B.3 – Merit Board Secretary, Renie Broderick, said that after a hearing the Board makes advisory recommendations to the City Manager for all city employees with the exception of court employees. Information contained in a footnote from the previous guidelines is now being incorporated into Section I.B.3 and states the Presiding City Judge makes the final decision on behalf of court employees.

Section III.C.1. - Human Resources Specialist, Sue Buck, discussed the proposed change in this section regarding hearings stating that if an appellant requests a public hearing, all aspects of the hearing will be public unless the appellant elects private deliberations.

Section V.D.2 – Boardmember Bill Munch asked how the section on membership might be affected if voters approve the City Charter Amendment in August. If approved, the Board would consist of three members and two alternate members. If the voters agree to add alternate members, the Board will meet to determine which members will receive pre-hearing statements and supporting materials. Boardmember Russell Schoeneman asked what would happen if a board member became ill during a hearing and had to be replaced by an alternate. Ms. Buck stated that board members must be present for the entire hearing and substitute board members cannot be brought in during the middle of the hearing process. Mr. Schoeneman said there could be potential value in keeping the alternates involved and informed throughout the process. The Board will revisit this section after the August special election.

Section VI.A.2 - Mr. Foley asked for clarification on why an appellant who is representing themselves would list themselves as a witness. Ms. Buck said in past hearings, some appellants who were representing themselves were unaware that they were not giving testimony when they were addressing the Board during opening and closing statements. If the appellant lists himself or herself as a witness, it gives the opposing party the ability to cross examine them.

Section VI.B - Ms. Buck stated that verbiage changes in this section were made regarding the timing of subpoenas. In order to allow for appropriate time for notifying witnesses and to give parties adequate time to respond, the timeline has been revised from business days to calendar days.

Section VI.B.5. – Mr. Schoeneman asked about the motion to quash and whether or not there is a penalty for witnesses who fail to comply with a subpoena. Ms. Buck said that generally, City employees are not issued a subpoena because the City facilitates their appearance. This section applies more to external witnesses or expert witnesses. Per the guidelines, the Board may seek compliance when a person fails to respond to a subpoena.

Section IX - The Board discussed the process of group swearing in on the day of a hearing. Ms. Buck said the process for group swearing in has changed and witnesses are now sworn in under oath individually when they come into the hearing. The purpose of the group meeting is to allow everyone to receive instructions. Inasmuch as some witnesses may not be able to attend the group instruction, the Board directed the staff person in charge of the witnesses to print the witness instructions on the white board in the witness waiting room, or make it available via paper copy so that all witnesses have the same instructions and are aware that witnesses are not to discuss their testimony until the hearing is over. Staff will add the hearing instructions to the standard operating procedures.

Section X.C.3. - Mr. Schoeneman suggested removing the word *may* and replacing it with the word *will* to clarify the language in the private hearing section. He suggested revising the sentence to read: "If the Appellant elects private deliberations, the Board *will* adjourn to executive session." The appellant has the choice of private or public deliberations. If the appellant chooses a public hearing, the appellant may choose private deliberations. However, if the appellant chooses the hearing to be private, deliberations are automatically done in a private executive session.

Section XIII - Ms. Buck reviewed sample documents found in the appendix which include a sample agenda; the merit system board hearing timeline; an outline of pre-hearing statement components; and a sample subpoena. The documents in the appendix may be particularly helpful to the employees who are representing themselves who may not be familiar with the types of documents used during a hearing. Ms. Buck noted the importance of keeping the lines of communication open and guiding appellants through the process by helping them to understand important points in the guidelines.

Approval of Revisions to the City of Tempe "Merit System Board Guidelines" and Appendix Documents Motion by Bill Munch to adopt the City of Tempe "Merit System Board Guidelines" and Appendix Documents with the changes as discussed by the Board; second by Jim Foley. Motion passed unanimously on a voice vote 3-0.

ITEM IV - Future City Charter Amendment to Add Alternate Board Member(s)

Ms. Broderick distributed a list of City Charter Amendments that will be placed on Special Election scheduled for August 26, 2014. If passed by the voters, two alternate members will be appointed to the Merit Board. The amended City Charter would read, "There shall be a merit system board consisting of three member and two alternate members appointed by the council from residents of the city for staggered terms of three years. Members of the board shall hold no other city office or city employment. The personnel officer shall provide necessary staff assistance for the merit system board." Ms. Broderick clarified that "city office" refers to people in elected positions and that a board member may sit on more than one board. If the amendment passes, the Mayor and Council will appoint the alternate members to the Board from the residents of Tempe. Staff will then schedule a meeting with the Board to discuss necessary changes to the guidelines.

ITEM V - Rotation of Board Chair Responsibilities

Motion by Bill Munch to appoint Russell Schoeneman as Chair of the Merit Board; second by Jim Foley. Amended motion by Bill Munch to include Chair Schoeneman's start date of Friday, May 2, 2014; second by Jim Foley. Motion passed on a voice vote 2-0 with Mr. Schoeneman abstaining.

ITEM VI - Future Agenda Items

No discussion.

Adjournment

Motion to adjourn by Bill Munch; second by Jim Foley. Motion passed unanimously on a voice vote 3-0. The meeting adjourned at 12:28 p.m.

Renie Broderick

Local Board Secretary